

SEQUENCE OF EVENTS PRIOR TO OWNERSHIP CHANGE OF A CURRENTLY LICENSED COMMUNITY RESIDENTIAL CARE FACILITY (CRCF)

Certain changes in the ownership arrangements of a CRCF where the existing owners change their degree or legal status of ownership, such as adding/deleting members to a partnership/ corporation, changing from a sole proprietorship to a partnership by adding members, changing from a corporation to a sole proprietorship, changing from a partnership to a corporation, etc., may alter the procedures indicated in this guide.

As a general rule, if controlling interest in a partnership or corporation changes, then all steps listed in this guide must be followed. Whereas, if controlling interest does not change, the steps listed in this guide may be modified to include all, part, or none of the following: 6.A (application), 6.B (licensing fee), 6.E (letters of reference for the new partnership members) 6.F (financial ability of new partnership members), and 6.I.1 (articles of incorporation), 6.I.2 (new partnership agreement). If this applies to you, in these special instances, it is important to coordinate with Health Licensing for specific guidance in taking the proper steps exclusive to your situation.

Exceptions to licensing standards that were granted by the Department to the current licensee are not transferable. Any exception to the licensing standards desired by the new licensee must be requested using DHEC Form 0226. A copy of the form maybe obtained through our office or from our Web Site at <http://www.scdhec.net/health/licen/hlforms1.htm>.

Step #1

Read and become familiar with Regulation 61-84, Standards for Licensing Community Residential Care Facilities. A free copy of the regulation is available on our Website at <http://www.scdhec.net/health/hrreg.htm>. A hard copy of the regulation is available through the Division of Health Licensing for a \$10 fee. Payment must be by personal check or money order (no cash or credit cards can be accepted). Once you have obtained a copy of the regulation, determine if you can meet and comply with all requirements described in the regulation. **Particular attention should be given to Section 103.D.** A license will not be issued to the new owner until a plan to bring the facility into compliance with the current building code within 24 months has been accepted by the Division of Health Facilities Construction. If you feel you can comply with Section 103.D. and meet all of the other requirements contained in Regulation 61-84, proceed to Step #2.

Step #2

Submit to Health Licensing, DHEC, 2600 Bull Street, Columbia, SC 29201, written notice of your intent to purchase/acquire a currently licensed facility. This notice shall be submitted no later than 90 days prior to ownership change and should include written notice, signed and notarized, from the current licensee of the intent to sell, lease, rent, or give the facility to you. In instances where the owner is deceased and a beneficiary for the business/facility has been named, that beneficiary must submit a signed statement of intent to become the new owner or the intent to sell, give, lease or rent the facility to another person or entity.

Step #3

Submit to Health Licensing within 30 days of the initial notification (as explained in Step #2) written proof that the ownership of the business and facility is on course to be legally changed from the current owner to you. This requirement may be met by submission of a copy of the proposed contract for the sale or draft lease/rental agreement to Health Licensing, or in instances of the death of the owner, a copy of the will showing you to be the beneficiary of the business/facility.

Step#4

Contact the Division of Health Facilities Construction to schedule a plan review. All CRCF's undergoing an ownership change must obtain written approval from the Division of Health Facilities Construction. This approval is issued based upon approval of the facility floor plan and building specifications. Plan reviews are conducted at the Division of Health Facilities Construction, 1777 St. Julian Place, Columbia, SC, **or a location arranged by the Department**, with the new owner, representative, and/or architect present. The new owner/architect must provide one set of plans and specifications for this review. On-site inspections by Health Facilities Construction staff of facilities undergoing ownership change will not be conducted until after the plan review. However, prior to plan review, the Health Facilities Construction staff is willing to discuss the suitability of any proposed renovations necessary to meet current building code standards. Health Facilities Construction staff will monitor completion of necessary renovations by on-site inspection. Please call (803) 545-4370 for an appointment.

The Division of Health Licensing will not issue a license to the new owner until after receiving a plan approval letter from Health Facilities Construction. The license will be issued and the time period to bring the facility into compliance with the building code will start from the effective date the license was issued. At the end of the 24-month period, the building must meet the current building code standards. Health Licensing must receive an affidavit from Health Facilities Construction attesting that the building is in compliance with current building code standards before the license following the end of 24-month time period will be renewed.

If another ownership change occurs during the 24-month construction upgrade period, the time period to bring the facility into compliance with the building code will not restart. The new owner taking over the facility must complete the construction upgrades in the remaining time period. A sell agreement must be submitted to Health Licensing and, that agreement shall include a statement to the effect that the proposed new owner will complete the construction upgrades in the remaining time. If the sell agreement does not contain such a statement, the Division will not issue a new license and the current owner is responsible for completing the construction upgrades in the remaining time.

Step #5

Secure the reports of the latest licensing, fire and life safety, and food service and sanitation inspections, and ensure that corrective action has been taken at the facility. The reports may be obtained from the current owner, or upon your specific written request, pursuant to Section 44-7-315 of the SC Code of Laws, to the Freedom of Information Office, DHEC, 2600 Bull Street, Columbia, South Carolina, 29201. Should you have any questions or concerns about our Department's Freedom of Information Policy, you can contact their office at (803) 898-3882 or by fax at (803) 898-3816. See Enclosure F of this packet for the request form used to secure this information from the Department. You may be billed for this service. The current rate is 25¢ per page for each page copied and \$15 per hour for research, but could be subject to change. Provide to Health Licensing written notice that you have verified that corrective action has been taken or describe the action you have taken or will be taking to correct any violations noted.

Step #6

The following items should be submitted to the Division of Health Licensing at least 30 days prior to your facility's anticipated/projected date of ownership change. This will allow an appropriate time frame for a thorough review of the documentation and a reasonable period to request any additional or amended information which may be required. Enclosure H is a map that reflects the counties that make up the licensing regional boundaries. A representative of the Community Care Oversight Program who will assist you with the ownership change process can be contacted by telephone at (803) 545-4370.

- A. The licensing application (Enclosure B).
- B. The licensing fee of \$10.00 per bed (or \$75 for seven beds or less), payable to DHEC by check or money order.
- C. A copy of current zoning approval for you to continue operation of this facility or exemption from zoning by the local land use authorities.
- D. A copy of business license or letter from the local authority if business license is not required.
- E. Emergency Evacuation Plan as specified by the September 2, 2003 Memorandum from the Division of Health Licensing. If the plan of the prior licensee is used, there must be documentation that the new licensee has reviewed and adapted and revised as necessary.
- F. Original letters of reference from three persons unrelated to the licensee. (Letters must not be from persons within the third degree of kinship.) The letters must attest to the licensee's reputable and responsible character, financial ability, and competence to operate a CRCF. (If the owner is a corporation, then references for the chief executive officer of the corporation; if licensee is a partnership, then references for each partner owning five percent or more.) At least one of the references shall be the result of a state

criminal records check with the South Carolina State Law Enforcement Division (SLED), or by letter from the local police department (record check conducted by a local police department must at a minimum be the same as would have occurred through SLED). For an owner that resides out-of-state, the reference shall include a criminal background check from the state where he/she currently resides in addition to a South Carolina SLED check. A South Carolina SLED criminal background check can be obtained through their website at <http://www.sled.sc.gov/>.

G. Documentation that the proposed owner is financially able to operate the facility. For example:

1. A written statement from a bank that they have made a loan to this individual or entity for purchase and/or start-up costs;
2. A written statement from a bank regarding an individual's or entity's bank account balance and a written statement from the individual or entity that this money is specifically set aside for the operation of the facility

H. In accordance with Section 40-35-32 of the South Carolina Code of Laws, the administrator of your proposed facility must be licensed as a CRCF administrator. Submit verification of the administrator's license issued by the Board of Long Term Health Care Administrators, SC Department of Labor, Licensing and Regulation, 110 Centerview Drive, P.O. Box 11329, Columbia, SC 29210, phone (803) 896-4544, fax # (803) 896-4555.

I. Submit to Health Licensing proof of ownership of the business and facility. This requirement may be met by submission of a copy of one or more of the following as may be applicable to the transaction:

1. Your properly recorded deed and/or bill of sale in the event of purchase of the property and business; or, if applicable, a copy of the executed lease/rental agreement if the real property is rented or leased;
2. Your properly recorded deed if the property and business have been given to you;
3. In the event of the owner's death (there may or may not be a will), legally accepted documentation which verifies your authority as issued by Probate Court to continue the business on behalf of the estate until the estate is settled. If the estate has been settled, documentation of the settlement (deed of distribution or settlement agreement, etc.) which verifies the current legal owner of the business and property on which the business is maintained.

J. Documentation of ownership of the facility if the owner is other than a sole proprietor or single person ownership. For example:

1. In cases of a corporation, a copy of articles of incorporation filed with the SC Secretary of State, along with the name of the authorized agent for service with the State. If an out-of-state corporation, a copy of authorization by the SC Secretary of State for that corporation or partnership to do business in SC;
2. Written, signed, and notarized partnership agreement.

When this information is received, reviewed, and approved, you will be contacted by Health Licensing and notified of the approval of the ownership change. The effective date of the license may not be established until notification occurs. Therefore, it is imperative that these documents be promptly submitted. If the license cannot be issued to the new owner prior to the expiration date of the license held by the current owner, the current license must be renewed and issued in the name of the current owner. Until the new license is issued to the new owner, the current owner shall be responsible for the operation of the facility in accordance with the standards established in DHEC Regulation 61-84. An inspection of the facility by this Department may be necessary in order to finalize the ownership change.

Step #7

After Steps 1-6 have been completed as applicable, a license will be mailed to you. A license is effective for a 12-month period. The license issued to the previous owner must be returned to DHEC at that time, if not already submitted by the previous owner.

The following must be in place at the facility at the time you begin operation of the facility and will be reviewed by the Department during the first inspection with you as owner:

- A. All furnishings, furniture and equipment to include outside tables and chairs (Sections 2701, 2702, 2704, 2715, 2717.E.);
- B. Dry goods, linens and nonperishable foods (Sections 1300, 1706);
- C. The facility neatly maintained and landscaped (Sections 1601, 1703, 2716.C., 2717);
- D. All required fire prevention and fire-fighting equipment (2200);
- E. Personnel records for all employees (Section 501.F.);
- F. The following posted in a conspicuous location in the facility which is accessible by visitors and residents;
 1. The Omnibus Adult Protection Act (Section 1001.A.B.);
 2. Bill of Rights for Residents and Grievance Procedures (Section 1001.A.B);
 3. Current month's activity schedule (Section 903.E.);

- 4. Emergency phone numbers (Section 1402);
- 5. Current week's menu (Section 1307.A.).
- G. Activity and recreational supplies (Section 903.D.);
- H. Diet manual published within the previous five years (Section 1306.C.);
- I. The individual designated to act in the absence of the administrator (Section 502.C.);
- J. Written residential care policies and procedures (Section 401.A.B.). If policies and procedures of the prior licensee are used, there must be documentation that the new licensee has reviewed and adapted and revised as necessary;
- K. Admission contracts or similar documentation, which detail all services, charges and refund policy (Section 901.A.);
- L. Supplies and equipment for proper administration of resident medication program must be in place (Section 1201.A.);
- M. First aid kit or supplies (Section 1201.A.);
- N. Supplies and equipment for the establishment and maintenance of health records (Section 704);
- O. Resident records (Sections 701, 702, 703).